

R E M A R K S

This paper is submitted responsive to the official action mailed March 12, 2003. Reconsideration of the application in light of the accompanying remarks and amendments is respectfully requested.

Initially, the undersigned would like to thank Examiner Lopez for courtesies extended during a telephone interview held June 10, 2003, wherein the aforesaid official action was discussed at length and the undersigned was greatly aided in formulating a suitable response thereto.

In the course of the aforesaid telephone interview, it was agreed that with the requested claim amendments to claim 1, that is, to change the language "adapted" to "arranged and constructed", that the subject matter of dependent claim 4 appears to define over the art of record. The present amendment has therefore presented claim 4 in independent form, including the discussed amendment to the language of independent claim 1, and it is respectfully submitted that this claim defines patentably over the art of record.

Also, by the present amendment, a proposed drawing correction is enclosed which moves the lead line for reference numeral 28 in Figure 3 so as to more clearly indicate the pocket clip portion and thereby resolve the Examiner's concerns in connection with the drawings which were objected to under 37 CFR 1.83(a).

Turning to the art rejection, the Examiner had rejected

the claims based upon various reference to U.S. Patent No. 4,660,575 to Andreason et al. and U.S. Patent No. 4,809,715 to Musetti.

The claims have been amended so as to respond to the points made by the Examiner, and it is respectfully submitted that the claims as amended define patentably over the art of record.

Turning to claim 1, this claim has been amended so as to further recite that the reduced inside diameter portion is a circumferential band. This structure is important to the subject matter of the present invention in that it is desirable to provide a substantially sealing engagement with the cigarette such that gases and the like do not escape past the reduced inside diameter portion so as to be able to poison the filter of the cigarette positioned within the remainder of the tube.

It is respectfully submitted that neither Musetti nor Andreason et al. disclose a reduced inside diameter portion on the tube which is in the form of a circumferential band. Rather, Musetti discloses longitudinal ridges, and Andreason et al. discuss discloses member 28 as well as member 32 with bump 36, neither of which is believed to meet the language regarding a circumferential band. Based upon the foregoing, it is respectfully submitted that claim 1 as amended defines patentably over the art of record.

Dependent claims 2 and 3 recite further structure of the present invention which is believed, also, to support independent patentability, and these claims are also submitted to be patentable based upon their dependence from independent claim 1 and the comments set forth above.

Claim 4 has been rewritten into independent form and is believed to allowable over the art of records.

Dependent claim 5 likewise is submitted to be patentable based upon its dependence and the argument set forth above.

By the present amendment, new dependent claims 7-10 have been added, and are as is discussed below.

Dependent claim 7 has been added to further recite the additional portion of the tube which extends between reduced diameter portions 22 and the open end, and that this portion has a diameter which is larger than reduced inside diameter portion 22. It is respectfully submitted that this subject matter, combined with the sealingly engaging structure, clearly defines over Musetti which does not seal in any event. Further, it is respectfully submitted that this language also defines over Andreason et al. since Andreason et al. does not disclose or suggest this subject matter as well.

Dependent claim 8 further recites that reduced inside diameter portion 22 are formed integral with tube 12. This defines over the Andreason et al. reference in that any

aspect of the Andreason et al. reference, that is, elements 32 or 28, which are interpreted as being the reduced inside diameter portions are not formed integrally with tube 12.

Dependent claim 9 further sets forth that the reduced inside diameter portions are positioned more closely to the closed end than the open end of the device. This is as shown in each of Figures 1-3, and is an important feature of the present invention in that it is desirable to form a seal with the cigarette as close to the burning end as possible so that gases do not escape to permeate the remainder of the cigarette, thereby potentially leaving a bad taste in the filter.

Dependent claim 10 has been added and further recites the straight edge 20 which extends between short and long sides of the tube, which also is as shown in the drawing.

This feature of the present invention is advantageous in that a cigarette is more readily removable from the tube through use of a straight edge, and the straight edge further simplifies manufacturing procedures and reduces costs as well.

Based upon the foregoing, it is further respectfully submitted that dependent claims 7-10 each add patentable subject matter in their own right.

An earnest and thorough attempt has been made by the undersigned to resolve the outstanding issues in this case and place same in condition for allowance. If the Examiner

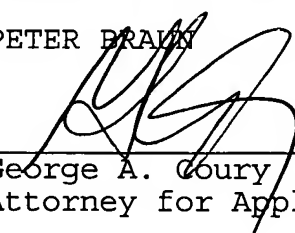
has any questions or feels that a telephone or personal interview would be helpful in resolving any outstanding issues which remain in this application after consideration of this amendment, the Examiner is courteously invited to telephone the undersigned and the same would be gratefully appreciated.

It is believed that no fee is due in connection with this paper. If, however, any fee is due, please charge same to Deposit Account No. 02-0184.

Respectfully submitted,

PETER BRAIN

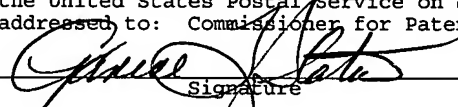
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Date: June 11, 2003

I Janice T. Staton hereby certify that this correspondence is being deposited with the United States Postal Service on June 11, 2003 as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313.


Signature

VERSION WITH MARKINGS TO SHOW CHANGES

Claims 1 and 4 have been amended as follows.

1. (Amended) A device for extinguishing and retaining a cigarette, comprising:

a tube having a closed end and an open end, said tube defining an inside diameter [adapted] arranged and constructed to slidably receive a cigarette, said tube further having a reduced inside diameter portion positioned between said closed end and said open end and [adapted] arranged and constructed to sealingly engage said cigarette so as to extinguish a lighted tip of said cigarette when inserted past said reduced inside diameter portion, wherein said reduced inside diameter portion comprises at least one circumferential band extending inwardly from said inside diameter of said tube.

4. (Amended) A device for extinguishing and retaining a cigarette, comprising:

a tube having a closed end and an open end, said tube defining an inside diameter arranged and constructed to slidably receive a cigarette, said tube further having a reduced inside diameter portion positioned between said closed end and said open end and arranged and constructed to sealingly engage said cigarette so as to extinguish a lighted tip of said cigarette when inserted past said reduced inside diameter portion, wherein said reduced inside

diameter portion comprises a plurality of axially spaced reduced diameter portions.